

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: LATRO SOUTHERN PTY LTD

PREMISES: MARGARET RIVER DISTILLING COMPANY

PREMISES ADDRESS: LOT 17 CARTERS RD MARGARET RIVER

APPLICATION ID: A000057337

NATURE OF APPLICATION: CONDITIONAL GRANT OF A TAVERN LICENCE

DATE OF DETERMINATION: 18 SEPTEMBER 2015

- 1 This is an application by Latro Southern Pty Ltd (the applicant) for the conditional grant of a tavern licence for premises to be known as the Margaret River Distilling Company and located at Lot 17, Carters Road, Margaret River. The application is made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (the Act).
- 2 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. There were no objections or interventions.
- 3 Pursuant to s 13 and s 16 of the Act, the application will be determined on the written materials lodged by the applicant.
- 4 The applicant has been operating a boutique distillery in Albany for 10 years, producing premium quality distilled spirits. It has won a number of international awards for its product and in November 2014, its Limeburners Whisky was recognised as being among the best whiskies in the world. The applicant now proposes to open a premise in Margaret River.
- 5 The applicant therefore seeks to establish a premium boutique distillery in Carters Road, Margaret River, specialising in the production of premium brewed, fermented and/or distilled alcoholic beverages. The proposed development will be a family friendly tourism facility of a craft nature, comprising operating alcohol production and manufacturing facilities, a cellar door and cafe. The proposal includes processing, brewing, fermenting and distilling alcoholic beverages. Spirits, liqueurs, cider, beer and wine will be sold for consumption on the premises and as packaged liquor for consumption off the premises.
- 6 An applicant for the grant of a tavern licence must satisfy the licensing authority that the grant of the application is in the public interest (refer s 38(2) of the Act). In this regard, the applicant submitted a Public Interest Assessment (PIA) which provided information on the proposed manner of trade, existing premises in the area and the demographic profile of the locality in which the premises will be located. The applicant also outlined the benefits to the community if the application is granted, addressed the

matters set out in s 38(4) of the Act, and submitted a petition from local residents supporting the application.

- 7 In determining whether the grant of an application in the public interest, I am required to exercise a discretionary value judgement confined only by the scope and purpose of the Act (refer *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492; *O'Sullivan v Farrer* (1989) 168 CLR 210; *Palace Securities Pty Ltd v Director of Liquor Licensing* [1992] 7WAR 241; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd* (2007) WASCA 175).
- 8 The scope and purpose of the Act can be ascertained from its objects, which are set out in s 5. The primary objects of the Act are:
 - to regulate the sale, supply and consumption of liquor;
 - to minimize harm caused to people, or any group of people, due to the use of liquor; and
 - to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- 9 The secondary objects of the Act are:
 - to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State;
 - to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.
- 10 Having considered the applicant's evidence and submissions, I am satisfied that the grant of the application would be promoting objects 5(1)(c) and 5(2)(a) of the Act. In respect of object 5(1)(b), minimising alcohol-related harm, there is no evidence before me to suggest that the grant of the application poses an unacceptable risk to the community.
- 11 Consequently, I am satisfied the applicant has discharged its onus under s 38(2) of the Act and that the applicant has complied with all other statutory requirements and conditions precedent to the application being granted, subject to the following:
 - (a) a Certificate under s 39 of the Act being lodged before the operation of the licence;

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- (b) compliance with the Local Government Act 1960, Health Act 1911 and any written law relating to the sewerage and drainage of these premises;
- (c) all work being completed within 12 months in accordance with the plans and specifications dated 6 March 2015;
- (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements being satisfactorily completed and the Director of Liquor Licensing being notified in writing at least 21 days prior to applicant wishing to trade under the licence;
- (e) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (f) the applicant seeking confirmation of the grant on or before 17 September 2015 (12 months from the date of the decision) pursuant to s 62(4)(c) of the Act.
- 12 On confirmation of the conditional grant, the following conditions will be imposed on the licence:

Trading hours

The permitted trading hours are:

Monday to Sunday - 10 a.m. to 7 p.m.

On Christmas Day and Good Friday from 12 noon to 7 p.m., but only for liquor sold ancillary to a meal supplied by the licensee.

On ANZAC Day from 12 noon to 7 p.m.

Trading conditions

- The licensee is authorised to sell and supply liquor in accordance with the provisions of s 41 of the Act as it relates to a tavern licence.
- Food must be available at all times during trading hours.
- All music played on the premises is to be background in nature only, sufficient to allow normal conversation to occur.
- The maximum number of patrons permitted on the licensed premises at any one time shall not exceed 200 or such lesser number imposed by the local government authority.
- The licensee shall not promote or sell drinks which offer liquor by virtue of their 'emotive' titles such as, but not limited to, 'laybacks', 'shooters', 'slammers', 'test tubes', and 'blasters'.

- Drink options that contain low alcohol liquor content as well as a range of non-alcoholic drink options must be available at all times.

Dress standards – Outlaw Motorcycle Gangs

The following dress standard applies during the permitted trading hours:

Jackets or any other clothing or accessory, or any clearly visible body marking, bearing patches or insignia of any Outlaw Motor Cycle Gangs not limited to, but including, the following listed Outlaw Motor Cycle Gangs, are not permitted to be worn or to be visible on the licensed premises:

- (i) Coffin Cheaters;
- (ii) Club Deroes;
- (iii) Gods Garbage;
- (iv) Gypsy Jokers;
- (iv) Outlaws;
- (v) Finks;
- (vi) Rebels;
- (vii) Comancheroes;
- (ix) Hell's Angels;
- (x) Rock Machine; and
- (xi) Mongols.

A notice is to be displayed at all entrance to the licensed area/event reflecting this condition.

Entertainment Condition

- (a) A person resorting to, or on the premises, including the licensee or manager, or an employee or agent of the licensee or manager, shall not:
 - (i) be immodestly or indecently dressed on the licensed premises, and/or
 - (ii) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (b) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:

- (i) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any classified “R 18+”, “X 18+” or “RC” classified publication, film or computer game or extract therefrom; or
- (ii) causing, suffering or permitting any person employed, engaged or otherwise contracted to undertake any activity or perform any entertainment on the licensed premises to be immodestly or indecently dressed on the licensed premises; or
- (iii) causing, suffering or permitting any person to take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (c) In this condition “licensed premises” includes any premises, place or area:
- (i) which is appurtenant to the licensed premises; or
- (ii) in respect of which an extended trading permit granted to the licensee is for the time being in force,

but does not include any part of the premises which is reserved for the private use of the licensee, manager or employees of the licensee and to which the public does not have access.

Compliance with harm minimisation policy

The licensee is to have a House Management Policy, Code of Conduct and Management Plan developed for these premises in accordance with the Harm Minimisation Policy. These documents must be retained on the licensed premises and produced to any Authorised Officer if required.

General

- Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
- The applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.

13 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING